



Analysis report on the publication of land administration data in an EULIS setting

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1 Introduction

A main objective for the EULIS work package 6 Conditions and Pricing is to create basic principles for allowing access to information of the Consortium Members in accordance with national legislation and policy lines of the organisations involved. The EULIS Description of Work states the following: "Privacy issues will be studied, and the work package will identify and compares existing national rules for the use of the information to be included in the EULIS service. Any obstacles to a unified way of delivering relevant information to fixed categories of users will be identified, and ways to overcome this, including changes to legislation, worked out" (E-Content, 2001, 9). It continues with: "By gathering details of existing principles for allowing access, charging and billing, among the members of the consortium, the work package will produce a solution that works for all partners in the form of standardised core subscriber's agreement for the service". (E-Content, 2001, 9).

We used the survey instrument to explore the situation for each of the issues described above for the countries of the Consortium members. We sent out a questionnaire to the contact persons of all members of the EULIS consortium, followed by specific additional questions if necessary for clarification. The set up of the questionnaire was as follows:

1. Section 1 General Information
2. Section 2 Access to data
 - a. freedom of information act
 - b. finding data
 - c. accessing data: physical access
 - d. copyright
 - e. database protection
 - f. specific User Restrictions
3. Section 3 Privacy

Time frames

On 19 April we sent out a survey coping with the issues described above. By the day of the deadline (1 June, 2002) we received 5 responses. At 1 July, 2002 all responses were received. A follow up mailing was sent at 20 June 2002, July 18, and August 21. All responses were received at the 1 October 2002.

The results of the analysis were presented at the working group meeting on 17 October 2002 in London. In London, remaining questions were clarified resulting in the completion of the report on 11 November 2002.

Deliverables

Deliverables of WP6 (E-Content, 2001, 20/23) would be a report on matters such as copyright, privacy and database right, and a report on situations concerning publicity of

information. This report includes both matters. In addition to this analysis report, we created a WP6.1/2 Country Report (van Loenen, 2002), which provides an overview of the situation in each jurisdiction that participates in EULIS. The report WP6.1/2 Country Report identifies the national rules for the use of cadastral information. This report addresses the following 4 issues:

1. It compares national rules for the use of cadastral information
2. It identifies obstacles to a unified way of delivering relevant information to fixed categories of users
3. It works ways out that overcome the obstacles
4. It proposes basic principles for allowing access to information in accordance with national legislation on privacy in relation to cadastral information.

This report

This report identifies and compares national rules for access to information, and use of information. The identification and comparison of these national rules is based on the national responses to the questionnaire. The main purpose of this report is to provide the participating countries insight in the differences that exist among them with respect to the publicity issue. Therefore, this report does not aim to discuss a most ideal situation for EULIS. However, if the Consortium Members agree on a preferred model of EULIS, the information in this report provides information on the steps to be taken, for the publicity issue, in order to come to such a preferred model.

First, the report addresses the issue of access to information for public inspection purposes. Then it reports on the issue of acquiring data from a Land Registry and/ or a Cadastre (LRC), followed by further use restrictions. Finally, privacy restrictions on the use are discussed. The report concludes with conclusions.

For every item the report provides general findings, and the differences and commonalities found. Every section ends with proposed principles for access to or use of data provided through EULIS. Where appropriate it distinguishes among different groups of users.

This report further includes a list of used acronyms and a list of used terminology.

2 National principles for access to land administration data for public inspection purposes compared.

General findings

The access to cadastral data issue evolves around two aspects: access for public inspection purposes, and access for more commercial use. The issue of public inspection was addressed in the questionnaire by questions 12 to 15, and 20 to 22. Further questions 16 and 42 did address the issue partly. An overview of the responses of the Consortium Members regarding the situation in their country is provided in table 2.1.

Commonalities and Differences

All countries have legislation in place that allow citizens to enforce access to cadastral data. Sometimes this legislation is based on a freedom of information act or a public records act, and sometimes based on a special Cadastre Act.

Users can inspect the data in the offices of the LRCs. In most countries they do not have to identify themselves or explain their further use if they want to inspect the data. Only the Registry of Scotland asks for identification, but only for feeing purposes. The

Online access is mostly only available to users that have subscribed to a service, and is thus not always available to all (EN, FI, LI, NL, NO, SC). Austria and Sweden do provide access to their data without the need to subscribe. However, access is only provided through object data, and in Sweden also no personal data is shown.

The business models of most consortium members require to recover of some of the costs by asking a fee for inspections. In the analogue world the principle of allowing anonymous access would still hold; people can pay anonymously in cash at the LRC's counter. In a digital environment, however, such an option is not (yet) available: Identification of the requester, in one way or another, is necessary to collect the fees.

One country (SC) provides access to the cadastral data through subject data (name, personal identifier), but most countries only allow access through object data (e.g., addresses, property-id). Requests for an overview of one single natural person's property, i.e. Mr. A owns parcel X, Y, Z, are denied by most countries. Only Scotland accepts such a request. Scotland requires the requester to identify himself (for feeing purposes).

Principles

As a result of the above the following principles may apply to all registrations:

1. For public inspection purposes, access to data provided through EULIS can be enforced by a request through national legislation.
2. For public inspection purposes, access to data provided through EULIS is only provided through object data (e.g., address of property, or property-id).
3. For public inspection purposes, access to data provided through EULIS is limited to a few properties.

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4. For public inspection purposes, requests for overviews of one single natural person's property are not accepted by EULIS. Individual EULIS members may decide otherwise.
 5. Data registered in the LRCs, and accessed through EULIS can be inspected without explanation of the intended use of the data.
 6. Identification of the requester is only allowed for feeing purposes.

Question (number refers to question number in questionnaire)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
12. Does your country have legislation regarding access to government data?	N	Y	Y	Y	Y	Y	N	Y
13. Can one access cadastral data by a request through this legislation?	n/a	Y	Y	Y	Y	Y	n/a	Y
14. Is access to cadastral data subject to a specific cadastre act?	Y	Y	Y	Y	Y	Y	Y	Y
15. In the context of providing access to cadastral data, are stakeholders, constituents, other government agencies, and commercial parties all treated the same? ¹	Y	N	N	N	N	N	Y	Y (N)
16. Does the access legislation or cadastre act require the publication of cadastral data on the Internet?	N	N	N	N	N	N	N	N
20. Is one required to identify oneself prior to being allowed to access the data set? (for public inspection purposes)	N	N	N	N	N	n/a ₂	Y	N
21. Is one required to explain one's intended use of the data set prior to being allowed to access the data set? (for public inspection purposes)	N	N	N	N	N	n/a ₂	N	N
22. Does legislation or other formal arrangements require a timely response to a request for access to cadastral data or databases? (for public inspection purposes)	N	Y	N	N	N	n/a ₂	N	Y
42. Does your privacy legislation allow you to publish cadastral data on the Internet?	Y	Y	Y	Y	Y	Y	Y	Y

Table 2.1 Questions addressing the publicity issue (1)

¹ No in this question refers to special rights for legal entities, like law enforcement officers and courts (England/ Wales, Finland, Lithuania, Netherlands, Sweden), and general government users (Norway). Sweden is stricter in allowing access for these purposes than the other members.

² N/A applies to the Norwegian participant in EULIS: Norsk Eiendominformasjon. This organisation is not subject to public inspection legislation. However, in Norway both the judicial and cadastral information are open for public inspection. The judicial information can be accessed at the courts, and cadastral information at the municipalities. For public inspection no charges are made and no questions asked about intended use, or identification.

Question (number refers to question number in questionnaire)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
How may your database in general be searched/ accessed?								
Through subject information (i.e. names, personal code)						X	X	
Through object information (i.e. address, unique identifier)	X	X	X	X	X	X	X	X
Does one need to identify himself (e.g. through a license) in order to access cadastral data through Internet/ online?	N ³ Y	Y	Y	Y	Y	Y	Y	N ⁴ Y
Does legislation allow you to accept requests for an overview of one single natural person's property, i.e. Mr. A owns parcel X, Y, Z? (Yr means only for restricted group of users)	Yr	Yr	Yr	Yr	Yr	Yr	Y	yr ⁵

Table 2.1 Questions addressing the publicity issue (2)

³ No identification is needed for access through object data

⁴ No identification is needed for a limited set of data

⁵ This only applies to employees of Lantmäteriet

3 National rules for acquiring data from a Cadastre or Land Registry

General

Professional requesters for cadastral data may use the national legislation to enforce access to this data. However, access can only be enforced if it is for public inspection purposes. For other purposes the LRCs have a certain freedom to respond to requests asking for a copy of a data set, or the complete, or a significant part of the cadastral database. The questionnaire addressed the rules for acquisition of cadastral data in question 19 to 21. An overview of the responses of the Consortium Members regarding the situation in their country is provided in table 2.2.

Commonalities and Differences

In almost all countries specific request need to be made in order to obtain a copy of (a subset of) the database. Only Scotland and Austria do not require this.

In Finland, Lithuania, and Sweden the intended use of the data has to be explained and accepted in order to obtain access to their data. The other countries do not require this.

Almost all countries require the requester to identify himself prior to allow access to the data set. England/Wales and Austria do not require this.

Principles

1. LRC data can (only) be requested through a special request, accessible through digital means
2. LRC (only) accepts a request for the acquisition and further use of its data when the intended use fulfils LRC's requirements.
3. For feeing purposes, and for the decision to accept a request for acquisition and further use of LRC's data, the request should be accompanied with the identification of the requester.

Question (number refers to question number in questionnaire)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
19. Does one need to make a specific request to your organisation in order to obtain a copy of or access to the cadastral data?	N	Y	Y	Y	Y	Y	N	Y
20. Is one required to identify oneself prior to being allowed to access the data set? (for other than public inspection purposes)	N	N	Y	Y	Y	Y	Y	Y
21. Is one required to explain one's intended use of the data set prior to being allowed to access the data set? (for other than public inspection purposes)	N	N	Y	Y	N	N	N	Y

Table 2.2 Questions addressing the acquisition issue

4 Further use restrictions

General

The use of data acquired for other than public inspection purposes is limited to the contractual provision of the LRCs. This issue is addressed in the questionnaire in questions 24, 25, 26, 28, 30, 31, 33, and 34. An overview of the responses of the Consortium Members regarding the situation in their country is provided in table 2.3 to table 2.5.

All LRCs have means to legally restrict the further use of their data. Some can claim copyright in their data, others database rights, but most can and do claim both (EN, FI, NL, NO). The database rights are a result of the implementation of the EU Directive 96/9/EC.

Commonalities and Differences

Most LRCs (EN, FI, LI, NL, NO, SE) offer their data on a take-it or leave-it basis, either through “boilerplate” licenses, or “clickwrap” licenses. Lithuania, Netherlands, Norway, and Sweden also leave some contractual aspects open for negotiation. These aspects include price, format of data, and other technical requirements. Austria is working on use restrictions.

The specific use restrictions are very divers among the countries. Most do not allow users to pass on the data to other parties (FI, LI, NL, NO, SE), require a monetary payment (FI, LI, NL, NO, SE), and claim an interest in value added products developed through use of cadastral data (EN, FI, SE). Sweden, Norway, and Lithuania use liability waivers. Scotland is the only LRC that does not impose any explicit or implicit restrictions on the use of its data.

Principles

Given the wide variety of restrictions, we propose to have the following maximum level of restrictions in the use of data provided through the service:

1. users can not pass on the provided data to any other parties without prior consent of LRC
2. a monetary payment is required
3. the following liability waiver statement is included in the contract: LRC would not be liable to the client for any losses that the client or others might incur due to any errors or other shortcomings in the data LRC supplies: LRC is indemnified against claims.
4. the following liability statement is included in the contract: the client is liable to LRC for any losses LRC might incur to a third party through inappropriate use of the data by the client
5. the following liability waiver statement is included in the contract: we would not be liable to the client for any losses that the client or others might incur due to systems for which we are not responsible, and for any kind of faults or changes in the information within these systems after the information has come beyond our reach
6. any value-added products that the client develops through use of the data either:

- a. requires our explicit permission prior to dissemination of the value-added products,
 - b. vests an ownership interest in LRC, or
 - c. requires a royalty payment to LRC
7. LRC data cannot be separated from products that incorporate cadastral data

These restrictions are offered on a take-it or leave-it basis. Individual members may have fewer restrictions in place. All other aspects of the contract (format, update frequency, price, etc.) may be negotiated with the LRC concerned.

Question (number refers to question number in questionnaire)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
24. Does legislation allow public agencies to claim copyright in data collected and processed by public agencies?	N	Y	Y	Y	Y	N	N	Y
25. Does legislation allow your organisation to claim copyright in its data?	N	Y	Y	Y	Y	N	Y	Y
26. Does your organisation claim copyright in its data?	n/a	Y	Y	Y	Y	n/a	Y	N
28. Does legislation in your country allow the control of the use of databases? (Yes also means in line with directive 96/9/EC)	Y	Y	Y	N	Y	Y	Y	Y
30. Does legislation allow your organisation to control the use of your database?	Y	Y	Y	n/a	Y	Y	n/a	Y
31. Does your organisation claim database rights in its data?	Y	Y	Y	n/a	Y	Y	N	Y

Table 2.3 Questions and responses concerning 'intellectual' property rights

Question 33: What specific contractual or licensing approach, if any, does your organisation impose on the use of its data?	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
not applicable, <u>there are no licensing or purchase contract provisions</u> involved in the use of our data							X	
we may negotiate license or purchase contract provisions with the user of the data set or database				X	X	X		X
we place the license or purchase contract <u>provisions in writing</u> when we supply the data or database <u>but we do not require our client to sign</u> or otherwise affirmatively assent through a volitional act to the terms								
we offer " <u>boilerplate</u> " license ⁶ or purchase contract provisions on a take-it or leave-it basis in response to a request for a specific or custom produced data set and we require clients to sign or otherwise respond affirmatively to those provisions		X	X	X	X	X		X
we offer " <u>shrink-wrap</u> " license ⁴ or purchase contract provisions on a take-it or leave-it basis (e.g. terms are contained in the packaging of a CD)								
we offer " <u>click-wrap</u> " license ⁴ or purchase contract provisions on a take-it or leave-it basis (e.g. terms are stated on a computer screen to which the client is required to affirmatively respond prior to downloading a data set, accessing an on-line database or having a data set shipped)		X			X			

Table 2.4: Questions and responses concerning use restrictions

⁶ See chapter 8 for a more detailed description of boilerplate, shrink-wrap and click-wrap licenses

Question 34: What other restrictions, if any, does your organisation impose on the use of its data or on the use of the database from which the data may be acquired? (mark all that apply and mark all restrictions contained in the contract or licensing language)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
not applicable, no explicit or implied restrictions are imposed							X	
our provisions state that clients can not pass on the provided data to any other parties			X	X	X	X		X
our provisions state that the use of some data sets or database can be for only academic or research purposes					X			
we require a monetary payment			X	X	X	X		X
we require the signing of a liability waiver statement before distributing the data: we would not be liable to the client for any losses that the client or others might incur due to any errors or other shortcomings in the data we supply				X		X		
we require the signing of a liability statement stating that the client is liable to us for any losses we might incur to a third party through inappropriate use of the data by the client				X		X		
our provisions state that any value-added products that the client develops through use of the data (1) requires our explicit permission prior to dissemination of the value-added products, (2) vests an ownership interest in us, or (3) we require a royalty		X	X					X
other or alternative restrictions are imposed on the data. Please specify:					X			X
Our data cannot be selected separately from products that use cadastral data					X			
A liability waiver statement is included: we would not be liable to the client for any losses that the client or others might incur due to systems for which we are not responsible, and for any kind of faults or changes in the information within these systems after the information has come beyond the reach of us								X

Table 2.5: Questions and responses concerning specific use restrictions

5 Use of information and privacy restrictions

General

The Consortium Members process a variety of data: names of property owners, property address, unique property identifier, price of property, transaction sum, mortgages, etc.. Some of this data may be characterised as personal data. The processing of personal data is subject to legislation protecting the privacy of natural persons.

At this moment, the participants are active in different jurisdictions, and thus different rules on privacy protection may apply. Austria, United Kingdom (including England, Wales, and Scotland), Finland, Netherlands, and Sweden are a member of the European Union (EU). Lithuania and Norway are not a member of the EU. The EU members are supposed to have implemented the EU data protection directive (95/46/EC), which entered into effect on 25 October 1998. This establishes a regulatory framework to ensure both a high level of protection for the privacy of individuals in all Member States and the free movement of personal data within the European Union (EU). The directive *minimises* differences between Member States' data protection rules, setting a high level of privacy protection within the EU. The directive also establishes rules to ensure that personal data is only transferred to countries outside the EU when its continued protection is guaranteed, so as to ensure the high standards of protection introduced by the directive within the EU are not undermined (http://europa.eu.int/comm/internal_market/en/dataprot/news/2k-10.htm). Due to the minimisation of the differences between Member States, the Directive did not result in full harmonisation of privacy law in Member States; it only provides a certain bandwidth within which Member States may operate (Tweede Kamer, 1997-1998, 25892, nr.3 p.5). Therefore, different interpretations of the explanation of the term personal data may exist among Member States, and different rules may apply to the use of personal data.

The EU Directive provides several legitimate reasons to process personal data (article 7 Directive 95/46 EC):

- (a) the data subject has unambiguously given his consent; or
- (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; or
- (c) processing is necessary for compliance with a legal obligation to which the controller is subject; or
- (d) processing is necessary in order to protect the vital interests of the data subject; or
- (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; or
- (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject which require protection under Article 1 (1).

EULIS Consortium members of EU countries (Austria, England/Wales, Finland, Netherlands, Scotland, Sweden) can process personal data because this complies with a legal obligation (article 7c). This, however, does not imply that the processing of personal data in these organisations is exempted from the provisions of the Directive.

Data transfer to non-EU countries

The non-EU countries do not have to adhere to EU Directives. However, the Directive also applies to data transferred to non-EU-countries. The basic rule is that the data should only be transferred to a non-EU country if it will be adequately protected there (safe harbour countries). Under the Directive, if a Member State's data protection authorities considered a particular set of data is not adequately protected if transferred to a non-EU country, they can block the individual data transfer, but not all transfers of data to the country concerned. The national authorities have to inform the Commission, which informs all other Member States. If the Commission and all other Member States agrees that the decision is justified, it will be extended to the EU as a whole (article 25 EU Directive, and http://europa.eu.int/comm/internal_market/en/dataprot/news/925.htm#2). The effect of the decision to qualify a third country as ensuring the protection of personal data adequately is that personal data can flow from the fifteen EU Member States and three European Economic Area (EEA) member countries (Norway, Liechtenstein and Iceland) to that third country without any further safeguard being necessary. The European Commission has so far recognised Switzerland, Hungary, the US Department of Commerce's Safe Harbour Privacy Principles, and Canada as providing adequate protection. Lithuania is not (yet) recognised as ensuring an adequate level of protection within the meaning of Article 25(6) of the EU directive.

However, the Directive provides a number of derogations to article 25 that may enable the transfer of personal data to countries without adequate protection. Article 26 f rules that a transfer may take place on condition that: "the transfer is made from a register which according to laws or regulations is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate legitimate interest, to the extent that the conditions laid down in law for consultation are fulfilled in the particular case". This derogation allows for the transfer of EULIS data from EU Member States to third countries lacking adequate privacy protection, including Lithuania.

Commonalities and Differences

Questions 37 to 40, 42, and additional questions asked by email refer to the privacy issue. An overview of the responses of the Consortium Members regarding the situation in their country is provided in table 2.6.

All countries have legislation in place controlling the use of personal data, and in line with the EU Directive 95/46/EC. All Consortium Members can process personal data because it complies with their legal obligation, or public task.

Data from all LRCs can be accessed through object data. For special user groups access through subject is allowed. In Austria, Lithuania, Netherlands, Sweden, and Scotland this applies to government entities, legal entities such as law enforcement agencies, *or* notaries. In the Netherlands, Scotland, England/ Wales, and Norway access through subject data is

provided to *anyone* subscribing to the on-line service. Special groups also can obtain an overview of all the properties of a natural person. In Norway and Scotland this information is given to all subscribers of the online service.

As mentioned before, most members of the consortium interpret the definition of personal data differently. Some keep it by a general statement that in certain circumstances all data in the LRC's database can be personal data. Others are more specific and mention name and unique personal identifier. Some countries recognise the address of property, the mortgage sum, or the transaction sum as personal data. As a consequence the different interpretations of the explanation of the term personal data have resulted in different policies concerning access to cadastral data among the Consortium Members. It is recommendable to harmonise the interpretation of the explanation of the term personal data.

Other privacy issues of interest: notification of the data subject

Of special interest is Article 11 "Information where the data have not been obtained from the data subject" of the Directive:

"1. Where the data have not been obtained from the data subject, Member States shall provide that the controller or his representative must at the time of undertaking the recording of personal data or if a disclosure to a third party is envisaged, no later than the time when the data are first disclosed provide the data subject with at least the following information, except where he already has it:

(a) the identity of the controller and of his representative, if any;

(b) the purposes of the processing;

(c) any further information such as

- the categories of data concerned,

- the recipients or categories of recipients,

- the existence of the right of access to and the right to rectify the data concerning him

in so far as such further information is necessary, having regard to the specific circumstances in which the data are processed, to guarantee fair processing in respect of the data subject.

2. Paragraph 1 shall not apply where, in particular for processing for statistical purposes or for the purposes of historical or scientific research, the provision of such information proves impossible or would involve a disproportionate effort or if recording or disclosure is expressly laid down by law. In these cases Member States shall provide appropriate safeguards."

In principle the Consortium members obtain their data from the data subject; there is no need to notify the data subject. However, in a EULIS setting the Consortium must explore organisation models so that this non-notification principle still applies.

A construction like one central front office, but decentral back-offices may overcome this potential barrier (see figure 2.1). Requests for information will be processed through EULIS, but the requester will be redirected to the database of the organisation concerned.

However, in the future requests for nation crossing data may be expected. It will be inconvenient to first go to the EULIS portal, and then request this specific information in Sweden and Finland, for example. One counter where one can acquire all data of all Consortiums may be preferred. If EULIS is to be set up as a new organisation to which all

members deliver their data, then the Consortium Members need to notify the subjects concerned, except when this is impossible, would involve a disproportionate effort, or if recording and disclosing is expressly laid down by law (article 11 (2)). This may lead to significant extra costs to the Consortium Members.

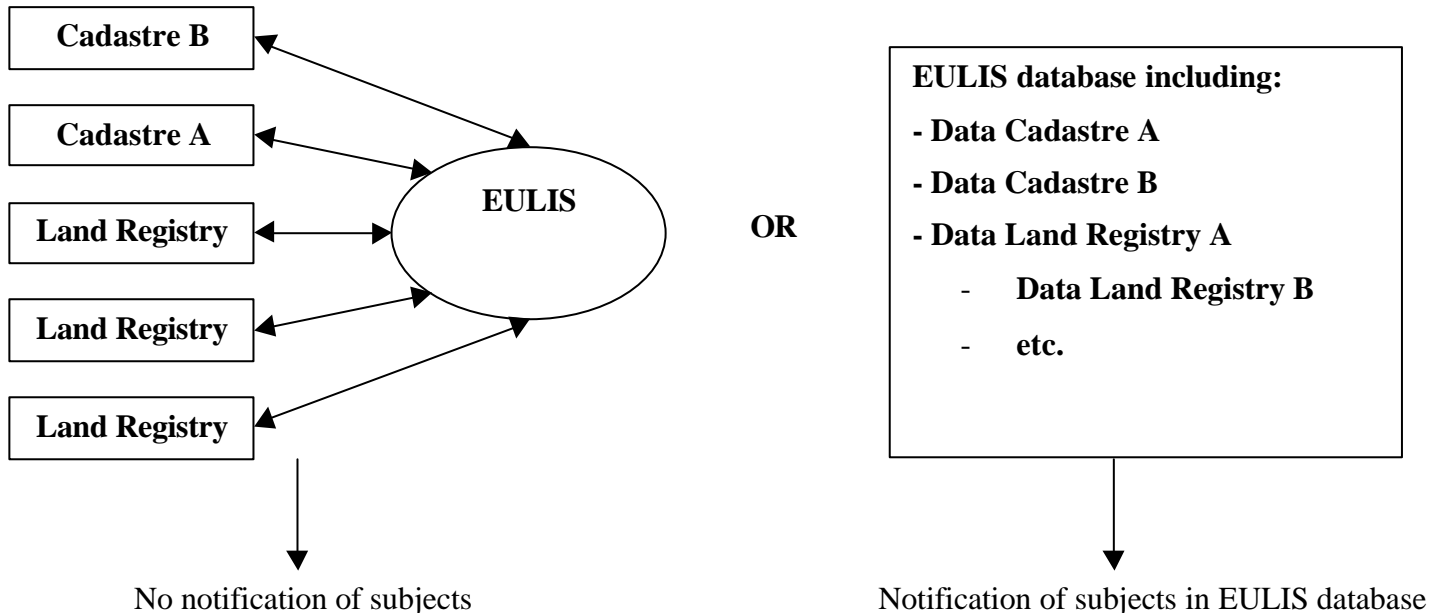


Figure 2.1: Models of organisation of EULIS: how to distribute the data

Principle/ statements/ findings:

1. For all requesters EULIS should allow access to its databases only through object data. EULIS does not accept requests from this group for overviews of the property of natural persons.
2. For special user groups EULIS may allow access to its databases through subject data, and /or object data. It leaves it to the individual Consortium Members to decide on the specific groups.
3. EULIS can provide a service through Internet for specific requests.
4. EULIS can show through Internet at least the following data: address, property information, building information.

Question (number refers to question number in questionnaire)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
37. Does your country have legislation controlling the use of personal data, i.e. privacy legislation?	Y	Y	Y	Y	Y	Y	Y	Y
38. Is your legislation conform directive 95/46/EC of the European Union?	Y	Y	Y	Y	Y	Y	Y	Y
39. According to your country's interpretation of the Directive does the Directive apply to cadastral data?	Y	Y	Y	Y	Y	Y	Y	Y
40. To which specific cadastral data does the legislation regarding the use of personal data apply?								
All data	X							
Any data that can be connected to a natural person					X	X		X
Ownership data			X			X		
Name of owner								
Address of property								
Encumbrances when owed to a natural person			X					
Mortgages				X				
Transaction sum				X				
Personal code (unique personal identifier)				X				

Table 2.6: Questions and responses concerning privacy aspects (1)

Question (number refers to question number in questionnaire)	Austria	England/ Wales	Finland	Lithuania	Netherlands	Norway	Scotland	Sweden
42. Does your privacy legislation allow you to publish cadastral data on the Internet?	Y	Y	Y	Y	Y	Y	Y	Y
Does legislation allow you to accept requests for an overview of one single natural person's property, i.e. Mr. A owns parcel X, Y, Z? (Yr means only for restricted group of users)	Yr	Yr	Yr	Yr	Yr	Yr	Y	yr ⁷
Does one need to identify himself (e.g. through a license) in order to access cadastral data through Internet/ online?	N ⁸ Y	Y	Y	Y	Y	Y	Y	N ⁹ Y
How may your database in general be searched/ accessed?								
Through subject information (i.e. names, personal code)						X	X	
Through object information (i.e. address, unique identifier)	X	X	X	X	X	X	X	X
How may your database in specific cases be searched/ accessed (e.g. for special user groups notaries, law enforcement officers, courts, subscribers to a service, etc)?								
Through subject information (i.e. names, personal code)	X	X	X	X	X	X	X	x ⁷
Through object information (i.e. address, unique identifier)	X	X	X	X	X	X	X	X

Table 2.7: Questions and responses concerning privacy aspects (2)

⁷ This only applies to employees of Lantmäteriet⁸ No identification is needed for access through object data⁹ No identification is needed for a limited set of data

6 Conclusions

This report identifies and compares national rules for access to information, and use of information. The identification and comparison of these national rules is based on the national responses to the questionnaire. The main purpose of this report is to provide the participating countries insight in the differences that exist among them with respect to the publicity issue. Therefore, this report does not aim to discuss a most ideal situation for EULIS. However, if the Consortium Members agree on a preferred model of EULIS, the information in this report provides information on the steps to be taken, for the publicity issue, in order to come to such a preferred model. Below the principles that may be adhered to in an EULIS setting are provided.

Principles for public inspection purposes

1. For public inspection purposes, access to data provided through EULIS can be enforced by a request through national legislation.
2. For public inspection purposes, access to data provided through EULIS is only provided through object data (e.g., address of property, or property-id).
3. For public inspection purposes, access to data provided through EULIS is limited to a few properties.
4. For public inspection purposes, requests for overviews of one single natural person's property are not accepted by EULIS. Individual EULIS members may decide otherwise.
5. Data registered in the LRCs, and accessed through EULIS can be inspected without explanation of the intended use of the data.
6. Identification of the requester is only allowed for feeing purposes.

Principles for acquiring cadastral data

1. LRC data can (only) be requested through a special request, accessible through digital means
2. LRC (only) accepts a request for the acquisition and further use of its data when the intended use fulfils LRC's requirements.
3. For feeing purposes, and for the decision to accept a request for acquisition and further use of LRC's data, the request should be accompanied with the identification of the requester
4. users can not pass on the provided data to any other parties without prior consent of LRC
5. a monetary payment is required
6. the following liability waiver statement is included in the contract: LRC would not be liable to the client for any losses that the client or others might incur due to any errors or other shortcomings in the data LRC supplies: LRC is indemnified against claims.

7. the following liability statement is included in the contract: the client is liable to LRC for any losses LRC might incur to a third party through inappropriate use of the data by the client
8. the following liability waiver statement is included in the contract: we would not be liable to the client for any losses that the client or others might incur due to systems for which we are not responsible, and for any kind of faults or changes in the information within these systems after the information has come beyond our reach
9. any value-added products that the client develops through use of the data either:
 - a. requires our explicit permission prior to dissemination of the value-added products,
 - b. vests an ownership interest in LRC, or
 - c. requires a royalty payment to LRC
10. LRC data cannot be separated from products that incorporate cadastral data

These restrictions are offered on a take-it or leave-it basis. Individual members may have fewer restrictions in place. All other aspects of the contract (format, update frequency, price, etc.) may be negotiated with the LRC concerned.

Privacy principles

1. For all requesters EULIS should allow access to its databases only through object data. EULIS does not accept requests from this group for overviews of the property of natural persons.
2. For special user groups EULIS may allow access to its databases through subject data, and /or object data. It leaves it to the individual Consortium Members to decide on the specific groups.
3. EULIS can provide a service through Internet for specific requests.
4. EULIS can show through Internet at least the following data: address, property information, building information.

A problem may be in the definition of personal data. Every member of the consortium explains this differently. As a consequence the different interpretations of the explanation of the term personal data have resulted in different policies concerning access to cadastral data among the Consortium Members. It is recommendable to harmonise the interpretation of the explanation of the term personal data.

7 References

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List of used terminology

"boilerplate" license: a standard formulation of legal documents that is offered on a take-it or leave-it basis

Cadastral data: data registered at a cadastre and/ or land register. Cadastral data in this report refers to data related to a parcel and the rights involved, like for example ownership information.

"click-wrap" license: a license offered on a take-it or leave-it basis. The terms in such a license are stated on a computer screen to which the client is required to affirmatively respond prior to downloading a data set, accessing an on-line database or having a data set shipped. If you agree, you can proceed. If you do not agree, you cannot. An example may be:
"IMPORTANT. BEFORE READING THIS ARTICLE, YOU MUST READ THE FOLLOWING LICENSE TERMS AND CLICK THE "I AGREE" BUTTON TO ACCEPT. THIS ARTICLE IS ONLY FOR THE EDIFICATION OF OUR CLIENTS AND MAY NOT BE USED FOR ANY OTHER PURPOSE. BY CLICKING THE "I AGREE" BUTTON, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND THAT YOU AGREE TO BE BOUND BY THEM".
(<http://www.bromsun.com/pub/newsletter/spring2002.pdf>)

"shrink-wrap" license: a license provision offered on a take-it or leave-it basis. The provisions are usually sealed within packaging and cannot be read until after the sale. It most frequently consists of a sealed envelope with the disks inside. The envelope has a mass of small print on the side, headed by a statement like "By opening this envelope you agree to the terms and conditions below. If you do not agree to these terms, return the disks in the unopened envelope to your supplier for a full refund".

8 List of used acronyms

AU	Austria
EN	England/ Wales
FI	Finland
LRC	Land Registry and/ or Cadastre
LI	Lithuania
NL	Netherlands
NO	Norway
SC	Scotland
SE	Sweden

9 National respondents

Austria	Mr. Helmut Auer
England/ Wales	Mrs. Jan Fine
Finland	Mr. Matti Vahala
Lithuania	Mr. Bronislovas Mikuta
Netherlands	Mr. Gerard Leenders
Norway	Mr. Kristian Stronen
Scotland	Mr. Bill Carracher
Sweden	Ms. Agnieszka Drewniak Mrs. Elisabeth Herder